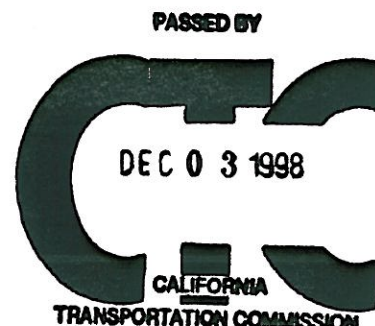


RESOLUTION G-98-28

ADOPTED BY CTC - 12/03/98

**REVISED
ENVIRONMENTAL ENHANCEMENT
& MITIGATION PROGRAM
PROCEDURES AND CRITERIA
1998-1999 Program Cycle**



1. GENERAL INFORMATION

1.1. Purpose and Authority

These procedures and criteria guide the evaluation, selection and funding of projects under the Environmental Enhancement and Mitigation (EEM) program. There are two program parts under the umbrella of the EEM program: the state EEM program, and a new federally funded Conservation Lands program. The following Procedures and Criteria Part B apply to the Conservation Lands program.

PART B - CONSERVATION LANDS

Chapter 622, Statutes of 1997 (Senate Bill 45 - Kopp) continues the EEM program and specifies legislative intent that the use of federal funds be maximized. Further, the federal Transportation Equity Act for the 21st Century (TEA-21) requires that certain federal funds be spent for transportation enhancements (U.S. Code Title 23, Sections 101a and 133d). Federal funds must be expended through state programs. To that end, the EEM program is being revised to incorporate administration of a portion of the State share of TEA-21 program funding for transportation enhancements, through a Conservation Lands program.

The TEA-21 program provides for 12 project categories. The Conservation Lands portion of the transportation enhancements program is limited to the acquisition of scenic lands and wildlife corridors. This program is herein referred to as the Part B - Conservation Lands program. It is intended to fund large scenic land acquisitions of statewide interest and priority along transportation corridors where those lands also have a high value for conservation habitat. Projects which are adjacent to habitat mitigation bank lands will be given highest priority.

It is anticipated that California will receive \$361 million in federal enhancements funding over six years (1998-99 through 2003-04), with 75 percent allocated to regional shares and 25 percent as a State share, and within the state share at least 4 percent, or \$11 million, goes to conservation lands. The whole \$11 million intended for Conservation Lands program projects is

being made available for 1998-99, from within the State's \$14.5 million portion of the \$58 million available in 1998-99. Further funding for the Conservation Lands program will be derived from TEA-21 funds reverted to the state by regional agencies or enhancement project sponsors in the future.

2. PROGRAM GUIDELINES

2.1. Agency Responsibilities

The Resources Agency and Caltrans must jointly approve project proposals for the Conservation Lands program, to be submitted to the California Transportation Commission (CTC) for consideration for funding. Specifically:

The Resources Agency reviews project proposals for their environmental and quality-of-life benefits, ranks them for statewide priority, and forwards recommended projects to the CTC for consideration of funding.

Caltrans reviews project proposals for minimum program eligibility and adjacent habitat mitigation bank opportunities, and administers the contracts of projects funded by the CTC.

The CTC determines the amount and timing of funding available for the Conservation Lands program, selects projects to be funded, and allocates funding to approved projects when ready for acquisition.

2.2. Eligible Applicants

Any state agency may propose a project. In addition, other public resource agencies, e.g., federal, local and regional, and non-profit agencies (Section 501 c(3)) may be co-applicants with a state resources agency, with the state agency acting as the lead agency on a project proposal. Caltrans also may propose a project with a state resources agency as co-applicant. In all cases, Caltrans must also approve any proposed project, and must consider opportunities to acquire adjacent habitat mitigation bank lands.

2.3. Programming Timeline

The CTC has made \$11 million dollars available in 1998-99 for allocation to Conservation Lands projects. Once the CTC approves these revised EEM guidelines, expected in December 1998, the Resources Agency may recommend projects up to \$11 million for the CTC to program, and CTC may then allocate funding to approved projects when ready for acquisition.

Future funding for Conservation Lands projects will depend on the availability of reverted TEA funds. Further applications will be solicited after such funding determinations have been made.

2.4. Project and Applicant Requirements

Conservation Lands allocations are intended to fund large, significant acquisitions of statewide interest and priority, as defined in Section 2.6 of these guidelines.

Conservation Lands projects are funded with federal highway funds. Project applicants must comply with normal federal highway procedures and requirements, as outlined in Section 4 of these guidelines. Resources agencies typically would not be familiar with these procedures and requirements, and should consult with Caltrans and refer to appropriate transportation manuals when preparing an application and implementing a project. Caltrans considers enhancements land acquisitions as right-of-way purchases, and applicants should expect Caltrans to handle all Conservation Lands projects that way.

Project applicants must designate a specific budget year when programming projects, and should complete the acquisition in that year. Federal funds expire, or lapse, at the end of four years from when first made available. Projects must be completed within those four years.

Conservation Lands project proposals must include a funding match of at least 11.5 percent of total project costs, and may include extra match above the minimum. Match may come from funds controlled by or available to the lead or co-applicant agencies (including grant sources, e.g., Part A - EEM grants), certain in-kind services provided by applicant, or the value of land donations made as part of the proposed Conservation Lands acquisition.

Only certain land donations ("right of way") count towards the applicant's funding share of a project. Donations must be from private ownership to public ownership for project purposes. Land that has been acquired previously and is already intended or available for use by the public does not qualify for donation credit.

This is a reimbursement, not an up-front grant, program, and applicants must be able to carry all project costs until reimbursement. Applicants are required to fund any deficiencies over project allocations.

Applicant state lead agencies are responsible for ensuring completion and permanent maintenance of projects. Land acquired for its scenic qualities must be maintained for its scenic qualities. Mechanisms must be in place to enforce significant scenic values, and the project owner must agree to enforce these mechanisms and be willing to participate in a preservation covenant attached to the deed of the property. Such a covenant ensures that any future work on the property will respect the scenic integrity of the property, and no development can take place that would degrade the scenic character and quality of the site.

Reasonable public access must be allowed although public uses may be limited to preserve the land's scenic and habitat value.

Applicants may refer to the Caltrans publication: **Transportation Enhancement Activities TEA Guidelines** for additional information on the TEA-21 federal enhancement program.

2.5. National Environmental Policy Act (NEPA) Compliance

Since the Conservation Lands program is federally funded, all projects must meet federal environmental requirements (NEPA). Normally CEQA compliance is required as well when a state agency is involved. NEPA can be a time-consuming process which must be provided for in project schedules. However, land acquisitions with no change in end use of the land often can comply with NEPA under a simple categorical exclusion, unless archaeological resources may be involved.

2.6. Eligible Projects

The Conservation Lands program provides for scenic acquisitions along state or local transportation corridors where these lands also have significant habitat conservation value and can be combined with adjacent habitat mitigation bank lands acquired to mitigate impacts from construction of transportation improvements. These must be lands visible from the transportation facility. The program also provides for acquisition of lands forming wildlife corridors which provide for safe passage of wildlife across transportation facilities.

Conservation Lands program project proposals must provide enhancement over and above any required mitigation for transportation projects or activities; no mitigation required for transportation projects or activities may be funded with federal enhancement funds.

The following excerpts from general guidelines for the federal enhancement program explain what projects and activities are eligible under the two categories of projects fundable through the Conservation Lands program. Federal Highway Administration designates Caltrans to define and interpret eligibility for any project or project features that may be in question.

ACQUISITION OF SCENIC EASEMENTS AND SCENIC OR HISTORIC SITES

This category may be applied to purchase, donation, transfer, or trade of lands which possess significant aesthetic, historic, natural, visual, or open space values, acquisition of which enhances the transportation experience, as part of the transportation system or as a significant part of the transportation viewshed.

Funds may be used for transaction costs including appraisals, surveys, legal costs, or purchase costs. Acquisition of scenic sites includes expenditure of funds for the purchase of, or the use of funds to accept the donation, transfer, or trade of less than fee interests (for example easements) in, lands which possess significant scenic values.

Scenic acquisition of a degraded area may be eligible on condition that the agency restores the site to scenic status within this or a later project phase. Restoration may be done with funds from other parts of the federal enhancement program, but Conservation Lands program funds can only be used for scenic or wildlife corridor acquisition or protection.

Example projects: Acquisition of Big Sur viewsheds; San Pedro Point Viewshed.

ACQUISITION OF LAND FORMING WILDLIFE CORRIDORS

This category may be applied to purchase, donation, transfer, or trade of lands which possess significant environmental value as wildlife corridors, more specifically to reduce wildlife mortality related to transportation facilities. Federal guidelines are still pending regarding wildlife corridor acquisitions as of December 1998.

2.7. Related Transportation Facility

To be eligible for consideration, Conservation Lands projects must be directly related to the transportation system, which means either an existing transportation facility or the construction of a new transportation facility or system. The relationship may be one of function, proximity or impact.

For purposes of this program, a transportation facility is defined as a public street, highway, mass transit guideway, or intercity rail route, or their appurtenant features (e.g. park and ride facilities, high-occupancy vehicle lanes, transit stations, etc.).

2.8. Minimum Project Requirements

Projects which fail to meet the following minimum program requirements will not be considered further:

- federal enhancement program eligibility as determined by Caltrans;
- direct relationship to the transportation system;
- lead agency application by a state resources agency, with joint project approval by Caltrans;
- sufficient match funds;
- financial plan that demonstrates full project funding for at least any phase that involves federal enhancement funds; and
- certifications for financial capability, willingness to meet federal requirements, and permanent project maintenance, by the lead agency.

In addition, no expenditures for mitigation for transportation projects or activities can be included in project scope.

3. PROJECT EVALUATION CRITERIA

All projects will be evaluated by the Resources Agency. The Agency may use the following criteria and assign values based on a point system within the ranges indicated. A maximum of 100 points may be assigned to any one project. Projects will be evaluated on the General Merit Scoring Criteria (up to 60 points) and on the appropriate Project Specific Category Scoring Criteria (up to 40 points). In summary, the scoring allocation is as follows:

GENERAL MERIT SCORING CRITERIA (0 - 60 POINTS)

a. Regional and Community Enhancement (0 - 50 points)

The project score in this area is derived from the project's primary effects; its intent and purpose; on the following elements.

1. Reinforcement, and complement to the regional transportation system by enlarging or enhancing existing or concurrent transportation mitigation bank lands.
2. Scenic importance in a regional corridor context.
3. Demonstrated statewide and community significance, including consistency with state and regional plans.
4. Increases availability, awareness or protection of visual or natural resources.
5. Degree of regional or community support. As evidenced by the provision of local financial assistance, letters of support from local interest groups and public bodies, etc.

b. Project Readiness (0 - 10 points)

The project score on this criteria is a function of how rapidly the proposed acquisition can be completed. Considerations include whether or not appraisals have been completed, whether there are willing sellers, whether the purchase price has been agreed upon, and the availability of matching funds.

PROJECT SPECIFIC SCORING CRITERIA (0 - 40 POINTS)

The project score in this area is derived from the degree to which potential for enhancement exists for landscaping or scenic beautification; current degree of visual blight; wildlife habit availability:

Significant land acquisitions will serve to protect or enhance ecosystems, watersheds, and/or other statewide natural resources. Important natural resource values include, but are not limited to, lands containing rare, threatened, or endangered species and their habitats, lands containing special wildlife values such as wildlife corridors, nesting and breeding areas, wetlands, woodlands, and riparian habitat, and agricultural lands.

a. Impact of proposed corridor land acquisition on wildlife (0 - 20 points)

High	10 - 20 points
Medium	5 - 10 points
Low	0 - 5 points

b. Degree to which land acquisition will preserve, rehabilitate or develop scenic or aesthetic resource (0 - 20 points)

High	10 - 20 points
Medium	5 - 10 points
Low	0 - 5 points

4. COSTS, REIMBURSEMENT, AND ACCOUNTING

Applicants must prepare accurate cost estimates for proposed enhancement projects. The project application must include a financial plan that demonstrates full funding at least for any phase that involves federal enhancement funds, and shows funding sources and an expenditure plan covering both project support activities and capital outlay.

Reimbursable real property acquisition costs may include appraisals, surveys, preliminary title reports, escrow fees, and title insurance fees as well as the purchase price of the property.

Costs involved in applying for the program cannot be reimbursed. Any costs incurred prior to written approval to proceed by Caltrans cannot be reimbursed. Costs incurred by a non-applicant agency to perform its normal required review and permit functions cannot be reimbursed.

Property acquisitions using federal funds face several federal requirements. Although the applicant(s) may have preliminary discussions about seller willingness, sales price, and terms, a formal offer to purchase can only be made after completion of NEPA compliance and must be made at full appraised value. If the sale is completed at a lower amount, the applicant must be able to demonstrate that the seller agreed voluntarily and uncoerced to accept the lesser amount; if the sale is completed at a substantially higher amount, the applicant must be able to justify the higher amount (such as via property improvements not covered in the appraisal or new, higher comparable local sales values). Since by definition enhancement projects must be over and beyond required work, a finding of public necessity is precluded and the option of property condemnation is not available.

For specific information about the federal highway process for local projects and the kinds of costs incurred on Title 23 federal-aid projects that are eligible for reimbursement, agencies unfamiliar with the process should refer to Caltrans' Local Assistance Procedures Manual and Program Guidelines, and should confer with the local Caltrans district office prior to the application deadline.

Federal highway projects must go through a process involving as many as nine steps, outlined briefly here, some of which may be undertaken concurrently but some of which must be sequential:

1. After the CTC programs a project into the Conservation Lands program, it must be amended into the Federal Transportation Improvement Program (FTIP) before any reimbursable costs can be incurred. For projects in an urban county, the applicant must ask the regional agency (the Metropolitan Planning Organization, or MPO) to amend the project into the FTIP, a process which typically takes from one to three months, unless the MPO already has a large enough lump sum enhancement project authority in its FTIP to cover the project or has been delegated authority to approve certain kinds of project amendments to its FTIP; for projects in most rural counties, the applicant must ask Caltrans to amend the state's FTIP.

2. An applicant resources agency must complete a federal master agreement with Caltrans, which verifies that the agency is capable of administering a federal project and its accounting procedures are capable of satisfying a federal audit. Once executed, a master agreement is good for subsequent projects, except that it may have to be renewed if changes occur in a state or federal process requirements.

3. Applicants must ask Caltrans to complete an FNM 76, a federal authorization to proceed for each project, that authorizes start dates and defines scope of reimbursable work. No work performed before FNM 76 has been completed is eligible for reimbursement. An applicant may ask for more than one separate FNM 76 for a project, one covering preliminary support work and a later one for capital expenditures, so as to allow periodic reimbursement of support expenditures, or may include the whole project in one in which case reimbursement for support work may be held up until all environmental compliance is complete, but in either case should ensure that Caltrans' Right-of-Way Office reviews the project to forestall procedural difficulties further down the line.

4. Applicants must complete required federal NEPA documentation and studies, and should build these into the timeline and cost of the project; capital expenditures incurred prior to completion of NEPA cannot be reimbursed.

5. When the applicant is ready for the acquisition, it must ask Caltrans to seek an allocation of funds from the CTC, ask for and ensure that Caltrans completes an FNM 76 covering capital outlay, and then execute a supplemental agreement with Caltrans for administration of the capital project; if everything works smoothly, the applicant should allow for an average of 60 days for a CTC vote (including CTC agenda notice time), followed by 30 days for execution of the supplemental agreement by both parties. If the applicant wants direct payment into an escrow account, it must provide Caltrans with additional detailed information in the supplemental agreement.

6. Following all these steps, the applicant can send an invoice to Caltrans to place the federal funds in escrow for the property acquisition, or to get reimbursement if it has completed

the acquisition with its own funds; processing of funding, involving Caltrans and the State Controller, takes about three weeks (which can be shortened by paying the Controller's office a fee to expedite processing. Typically, invoices are paid at the federal match rate, although a different reimbursement schedule may be built into the FNM 76 and supplemental agreement.

Conservation Lands projects will normally be handled between local offices of the resources agency and one of Caltrans 12 district offices, although Caltrans handles all funding requests (including the CTC allocation vote) through its headquarters office. A resources agency may choose to set up a headquarters-to-headquarters process for Conservation Lands projects, which can shift some handling time from within Caltrans to within the resources agency itself, and may expedite some steps after the resources agency headquarters develops familiarity with the federal highway process.

5. APPLICATION FORM

Caltrans has developed a three part TEA Application Form which will be used for the Conservation Lands program at present. It can be obtained from a Caltrans district office or Caltrans Transportation Activities Enhancement Branch at its Sacramento headquarters.

A checklist of the information which is required to be submitted for Conservation Lands program applications is included below. The applicant should assemble materials in the order specified.

Applicants must submit an original and three copies (total of four) of all materials submitted to the Resources Agency for each Conservation Lands program application.

6. ADDITIONAL INFORMATION ON THE PROGRAM AND PROCEDURES

Additional information on the TEA-21 program and on eligible costs and accounting procedures can be obtained from Caltrans, Transportation Activities Enhancement Branch, 1120 N Street, MS 28, Sacramento, CA 95814, or from the Caltrans website: www.dot.ca.gov/hq/TransEnhAct/.

Completed applications and questions regarding the EEM program Procedures and Criteria (program Part A or Part B) should be directed to the EEMP Coordinator, California Resources Agency, 1416 Ninth Street, Suite 1311, Sacramento 95814, phone 916-653-5656.

Checklist for Conservation Lands Program Applications

The following items are required for applications for funding under the Conservation Lands Program. Please assemble your application in the order specified, and submit a total of four copies of all materials to the Resources Agency.

1. Signed three part TEA Application Form
2. Table of Contents (with page number references)
3. Project Summary - brief description of project purpose, location, size, total cost, and amount of request.
4. General Merit and Project Specific Scoring Criteria - narrative and quantitative explanation for each of the scoring criteria.
5. Project Expenditure Plan - schedule, sources of funds, and expenditures, by project component.
6. Exhibits
 - a. Project location map
 - b. Project site photos
 - c. Acquisition map showing boundaries, parcel numbers and names of owners
7. Letters of endorsement, if any.